

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LESLIE PAUL HOWARTH,	:
Plaintiff	:
v.	: Civil Action No. 04-315J
ROBERT MRKICH, M.D.,	:
Defendant	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges. The complaint alleges a claim by plaintiff under the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., against his former physician. A related complaint, Howarth v. Mrkich, C.A. No. 05-03J, has been dismissed.

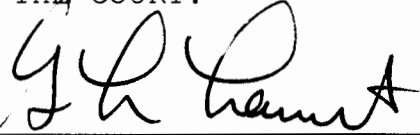
Defendant filed a motion to dismiss this complaint, docket no. 3. The Magistrate Judge filed a Report and Recommendation on July 14, 2005, docket no. 15, recommending that defendant's motion to dismiss be granted in part and denied in part. The Magistrate Judge held a status conference on August 12, 2005. At that time it was agreed by plaintiff, appearing pro se, and defendant, appearing by counsel, that the complaint would be dismissed with prejudice. No stipulation of dismissal has been filed, however.

Upon consideration of the record of this matter, and noting that no party has objected to the Report and Recommendation, the following order is entered:

AND NOW, this 26<sup>TH</sup> day of September, 2005, IT IS HEREBY ORDERED that the motion to dismiss, docket no. 3, is granted in part and denied in part as stated in the Report and Recommendation, docket no. 15, which is adopted as the opinion of the Court.

IT IS FURTHER ORDERED that the parties shall appear before the Magistrate Judge in Courtroom A in Johnstown at 1:00 p.m. on Monday October 3, 2005, to show cause why the settlement of this matter agreed to on August 12, 2005, should not be enforced.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'G L Lancaster', written over a horizontal line.

GARY L. LANCASTER,  
UNITED STATES DISTRICT JUDGE

cc:

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